

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tiffany Miller	Team: Team # 2	CCRB Case #: 200601058	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 10/15/2005 1:51 AM	Location of Incident: N/W/C Linden Blvd & Dillon Street	Precinct: 113	18 Mo. SOL 4/15/2007	EO SOL 4/15/2007	
Date/Time CV Reported Mon, 01/23/2006 2:13 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 01/25/2006 2:17 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Joseph Matzinger	92715	927158	112 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Erik Lowe	23046	930600	113 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Joseph Matzinger	Abuse: Sgt. Joseph Matzinger stopped and questioned § 87(2)(b)	
B.SGT Joseph Matzinger	Discourtesy: Sgt. Joseph Matzinger spoke obscenely and/or rudely to § 87(2)(b)	
C.SGT Joseph Matzinger	Abuse: Sgt. Joseph Matzinger searched § 87(2)(b)	

Synopsis

On January 22, 2006, § 87(2)(b) contacted IAB to file a complaint. The complaint was forwarded to the CCRB on January 25, 2006. On October 15, 2006, § 87(2)(b) was traveling down Linden Blvd. with friends. § 87(2)(b) and two other females were seated in the rear of the vehicle, her friend § 87(2)(b) was seated in the passenger seat and an unknown male was the driver. § 87(2)(b) observed her friend § 87(2)(b) walking on Linden Blvd. and asked the driver to stop so she could talk to him. § 87(2)(b) exited the vehicle and crossed the street to speak with her friend. As § 87(2)(b) spoke with § 87(2)(b) he asked, "What's going on with your friends?" § 87(2)(b) turned and observed a patrol car in the middle of the street. Sgt. Matzinger and PO Lowe stood in front of the patrol car and conversed with the occupants of the vehicle. § 87(2)(b) asked, "What happened?" Sgt. Matzinger approached § 87(2)(b) (Allegation A) and stated "You don't have to know why. Give me your bag so I can search it." § 87(2)(b) stated, "Officer all I want to know is what happened." Sgt. Matzinger stated, "You don't need to know what happened. Give me your fucking bag so I can search it (Allegation B)." § 87(2)(b) asked, "No. Why am I being searched?" Sgt. Matzinger snatched the strap of § 87(2)(b)'s purse and pulled it off of her arm. Sgt. Matzinger rummaged through § 87(2)(b)'s bag (Allegation C) and recovered one bag of marijuana. At the time of the incident Sgt. Matzinger was ranked as a police officer but has since been promoted.

§ 87(2)(g)

[REDACTED]

Summary of Complaint

§ 87(2)(b)

On February 2, 2006, § 87(2)(b) was interviewed at the CCRB (6A-D). The incident occurred on October 15, 2005, but § 87(2)(b) did not report it until January 25, 2006. § 87(2)(b) was unable to file the complaint before then because she was in the process of moving and she had recently began a new job on § 87(2)(b).

On October 15, 2005, § 87(2)(b) was out with a few of her friends. § 87(2)(b) was in a champagne colored four door sedan. There were five people in the vehicle and § 87(2)(b) was seated in the rear, behind the driver § 87(2)(b) didn't know the drivers name). § 87(2)(b) was seated in the front passenger seat, § 87(2)(b) was seated in the rear of the vehicle behind the passenger seat and § 87(2)(b) was seated in the middle of the rear. § 87(2)(b) and her friends were driving down Linden Blvd. when she observed an old friend § 87(2)(b) walking down the street. The driver stopped the vehicle, § 87(2)(b) exited and walked over to § 87(2)(b) § 87(2)(b) was across the street so § 87(2)(b) crossed the street to reach him. The street was a two way with one lane of traffic in each direction. § 87(2)(b) spoke with § 87(2)(b) for approximately five minutes. As § 87(2)(b) spoke with § 87(2)(b) he looked across the street and stated, "What's going on with your friends?" § 87(2)(b) turned around and observed two police officers and a marked patrol car in the middle of the street. Sgt. Matzinger (as read from badge) and PO2 (white, male, 6'0, brown hair, in uniform, balding, five o'clock shadow) stood in front of the patrol car and conversed with the occupants, who were standing in the street.

§ 87(2)(b) asked, “What happened?” Sgt. Matzinger walked toward her and stated, “You don’t have to know why. Give me your bag so I can search it.” § 87(2)(b) walked away. § 87(2)(b) stated, “Officer all I want to know is what happened.” Sgt. Matzinger stated, “You don’t need to know what happened. Give me your fucking bag so I can search it.” § 87(2)(b) stated, “No. Why am I being searched?” Sgt. Matzinger snatched the strap of § 87(2)(b)’s purse and pulled it off of her arm. § 87(2)(b) carried her purse on her right shoulder, between her collarbone and shoulder blade. Sgt. Matzinger unzipped the bag, rummaged through it and he found one bag of marijuana. Sgt. Matzinger threw the marijuana on the hood of an unknown vehicle and stated, “Now you’re fucking going to jail.” Sgt. Matzinger instructed § 87(2)(b) to turn around and she complied. Sgt. Matzinger handcuffed § 87(2)(b). § 87(2)(b)’s friends stood on the curb next to the vehicle they occupied and observed silently. Sgt. Matzinger removed § 87(2)(b)’s identification from her bag and stated, “Where did you buy this ID?” Sgt. Matzinger asked § 87(2)(b) if she had any open warrants. § 87(2)(b) stated, “No officer. I have no warrants and no priors.” Sgt. Matzinger escorted § 87(2)(b) to the patrol car and placed her in the rear. § 87(2)(b) asked, “What precinct is this?” Sgt. Matzinger stated, “You don’t need to know what precinct this is.” PO2 stated, “113th Precinct.” § 87(2)(b) was transported to the 113th Precinct.

At the precinct, a female officer frisked § 87(2)(b) in front of the desk. § 87(2)(b) stated that Sgt. Matzinger was nasty to her. § 87(2)(b) stated, “You don’t have to be this way to me, why are you being like this?” Sgt. Matzinger stated, “Because I can.” Sgt. Matzinger was very disrespectful. § 87(2)(b) was not informed of what she was being charged with. § 87(2)(b) pleaded guilty and the case was acquitted contemplating dismissal.

Efforts to Locate Additional Witnesses

§ 87(2)(b) was unable to provide the full names of the other witnesses that were with her during the incident. § 87(2)(b) did identify § 87(2)(b) but she did not provide any contact information for her. The investigator queried various databases to obtain contact information for § 87(2)(b) but the results were negative. § 87(2)(b) provided a notarized statement from § 87(2)(b) but it was very general and lacked detail (enc. 6D).

Results of Investigation

Officer Identification

Sgt. Matzinger was identified by § 87(2)(b) who read his name from his badge during the incident. Sgt. Matzinger was also listed as the arresting officer and he verified his role in the incident at the time of his CCRB interview. Sgt. Matzinger stated that PO Lowe was his partner. PO Lowe verified his role in the incident at the time of his CCRB interview.

Sgt. Joseph Matzinger

On March 16, 2006, Sgt. Joseph Matzinger was interviewed at the CCRB (enc. 8A-B). On October 15, 2005, Sgt. Matzinger worked a tour from 2130 hours to 0605 hours. Sgt. Matzinger was assigned to conditions within the 113th Precinct. Sgt. Matzinger worked with PO Lowe. Sgt. Matzinger did not recall whether he was dressed in plain clothes or uniform. Sgt. Matzinger did not recall whether he was assigned to a marked or unmarked vehicle. Sgt. Matzinger did not have entries in his memo book relevant to the incident.

On October 15, 2005, Sgt. Matzinger was patrolling conditions within the 113th Precinct. Sgt. Matzinger was at a location where there were reported sales of untaxed alcohol. As Sgt. Matzinger drove down Linden Blvd. he observed a group of three females (all young females, two black females and one white female) standing on the corner and they were obstructing pedestrian traffic. Dillon Street is a residential street and there is a six-foot cyclone fence on the corner. The fence had a small opening through which untaxed alcohol is sold. A man exits, an order is placed, the money is exchanged and the alcohol is passed through the fence. Sgt. Matzinger inferred that the females were attempting to purchase the untaxed alcohol. The females were standing at the opening in the fence, waiting to be served. The blue laws (laws regarding the regulation of alcohol sales, which have been recently modified to state that alcohol can only be sold six days a week) are not observed and identification is not requested. This location has been a

condition within the precinct for approximately one year. There are numerous 311 complaints about the location and daily calls to the precinct.

Sgt. Matzinger and PO Lowe exited the vehicle and approached the group of females. Sgt. Matzinger did not step on the curb but stood in the street very close to the curb. Sgt. Matzinger requested that the females approach him. Sgt. Matzinger did not observe anyone on the other side of the fence. Sgt. Matzinger stated, "Ladies, can I speak with you for a second?" Sgt. Matzinger stated that there is a camera system set up at the location that allows the people inside to see outside. Sgt. Matzinger asked the females why they were there and where they lived. All of the females stated that they were with a male that was waiting for them in a car and they were not waiting at the fence. § 87(2)(b) questioned Sgt. Matzinger's motives while the other females remained quiet. Sgt. Matzinger requested § 87(2)(b)'s identification. Sgt. Matzinger was going to issue a summons for obstructing pedestrian traffic. § 87(2)(b) stated that she did not have identification.

§ 87(2)(b) accused Sgt. Matzinger of racially profiling the group. Sgt. Matzinger explained that if § 87(2)(b) did not produce her identification he would have to take her to the station house to verify her identification. § 87(2)(b) stated, "Oh, I have my ID." § 87(2)(b) looked in her pocketbook and Sgt. Matzinger shined his flashlight into the pocketbook to ensure his safety. § 87(2)(b) quickly entered her bag and then attempted to throw something. Sgt. Matzinger grabbed § 87(2)(b)'s hand. Sgt. Matzinger instructed § 87(2)(b) to open her hand. § 87(2)(b) was holding marijuana in her hand. § 87(2)(b) was handcuffed and placed in the patrol car. Sgt. Matzinger searched § 87(2)(b)'s pocketbook to ensure that she had no other contraband or weapons. Sgt. Matzinger did not use physical force against § 87(2)(b). Sgt. Matzinger did not search § 87(2)(b). Sgt. Matzinger did not say, "Give me your fucking bag so I can search it." Sgt. Matzinger did not state, "Now you're fucking going to jail." The other females were not searched. Sgt. Matzinger was on the scene for approximately twelve minutes. A female officer responded to the scene to frisk and search § 87(2)(b) before transport. Sgt. § 87(2)(b) did not recall how the female officer was requested to the scene. Sgt. Matzinger did not recall if PO Lowe interacted with § 87(2)(b).

PO Erik Lowe

On April 4, 2006, PO Erik Lowe was interviewed at the CCRB (enc. 9A-B). On October 15, 2005, PO Lowe worked a tour from 2130 hours to 0605 hours. PO Lowe was assigned to club auto and was responsible for detecting alcohol related incidents. PO Lowe worked with Sgt. Matzinger. PO Lowe was dressed in uniform and assigned to a marked patrol car. PO Lowe did not have entries in his memo book regarding the incident.

On October 15, 2005, at approximately 1:51AM, during patrol PO Lowe and Sgt. Matzinger passed by the corner of Dillon Street and Linden Boulevard. There is a house on the corner that is completely fenced in from which a male sells illegal alcohol. There are always numerous cars parked in front of the location, obstructing traffic. There are numerous complaints from the neighbors about the location. PO Lowe stated that the intersection of Linden Blvd. and Dillon Street is a routine stop while patrolling the area. As PO Lowe approached the corner of Dillon Street and Linden Blvd. there were numerous cars parked, some of which pulled away but one vehicle remained. PO Lowe and Sgt. Matzinger approached the vehicle to find out who was inside and if they resided at the location. PO Lowe did not recall what the vehicle looked like. The vehicle was parked on Dillon Street, which is a two way street with one lane in each direction. PO Lowe approached the passenger side of the vehicle and Sgt. Matzinger approached the driver's side. Sgt. Matzinger requested identification from the occupants. PO Lowe did not recall who provided their identification. Sgt. Matzinger interacted with the driver and the passengers. PO Lowe did not recall how many people were in the vehicle. There was a male and a few females. There were people seated in the backseat of the vehicle.

The occupants in the rear of the vehicle were belligerent, uncooperative and used abusive language. The females cursed and asked, "Why are you stopping me?" Sgt. Matzinger asked the females to exit the vehicle one at a time. Some of the females exited on the curbside of the vehicle near PO Lowe and some of the females exited into the street and conversed with Sgt. Matzinger. Two females exited the vehicle on PO Lowe's side. PO Lowe requested that the females step to the rear of the vehicle. Sgt. Matzinger stood near the front of the vehicle on the drivers side. PO Lowe did not interact with the females and was unable

to hear the conversation with Sgt. Matzinger. A black, female (later identified as § 87(2)(b)) that Sgt. Matzinger interacted with was eventually arrested for marijuana. PO Lowe did not observe the events that led to § 87(2)(b)'s arrest. PO Lowe did not hear Sgt. Matzinger state, "Give me your fucking bag so I can search it." PO Lowe did not observe Sgt. Matzinger snatch a purse from § 87(2)(b). PO Lowe did not observe Sgt. Matzinger search § 87(2)(b)'s purse. PO Lowe did not recall if § 87(2)(b) was searched.

Police Documents

SPRINT

At approximately 1:51AM there was one crime arrest. The arrest was verified at approximately 1:56AM (enc. 10A-B).

Arrest Report

On October 15, 2005, at approximately 1:51AM, § 87(2)(b) was arrested at Linden Blvd and Dillon Street. § 87(2)(a) 160.50

Force was not used to effect the arrest (enc. 11A-C).

Command Log

§ 87(2)(b) was logged into the command log at 1:55AM. § 87(2)(b) was arrested at Linden Blvd. and Dillon Street at 1:51AM by Sgt. Matzinger. § 87(2)(b) had ten dollars which was vouchered but later returned to her. § 87(2)(b) was in good physical and mental condition. At approximately 3:40AM § 87(2)(b) was transported to Queens Central Booking in van number 5755 (enc. 12A-B).

The bag of marijuana recovered from § 87(2)(b) was vouchered (voucher number § 87(2)(b)) as arrest evidence.

OCA History

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

CCRB History

§ 87(2)(b)

This is § 87(2)(b)'s first CCRB complaint (enc. 3A).

Sgt. Matzinger

Sgt. Matzinger has no prior substantiated allegations (enc. 2A).

Conclusions and Recommendations

Undisputed Facts

§ 87(2)(g)

Credibility

Sgt. Matzinger and PO Lowe

§ 87(2)(g) Sgt. Matzinger stated that he observed the group of females standing on the corner of Linden Blvd and Dillon Street. PO Lowe stated that he and Sgt. Matzinger approached a vehicle that was parked in the front of a house on the corner of Dillon Street and Linden Blvd. § 87(2)(b) a few females and a male were inside of the vehicle. Sgt. Matzinger stated that as he interacted with the females, they were all compliant with his requests with the exception of § 87(2)(b). PO Lowe stated that all of the females were belligerent and used abusive language. PO Lowe stated that he did

not observe the events that lead to § 87(2)(b)'s arrest because he stood to the rear of the vehicle with the other females. Neither Sgt. Matzinger nor PO Lowe had the incident documented in their memo books.

§ 87(2)(b)

§ 87(2)(g)

Allegation A: Sgt. Joseph Matzinger stopped and questioned § 87(2)(b)

Allegation C: Sgt. Joseph Matzinger searched § 87(2)(b)

According to § 87(2)(b) she was conversing with a friend "§ 87(2)(b)" on Linden Blvd. while her friends waited for her in the vehicle. As § 87(2)(b) conversed with "§ 87(2)(b)" Sgt. Matzinger and PO Lowe approached the vehicle that her friends waited in. § 87(2)(b) turned to inquire what happened. Sgt. Matzinger walked toward § 87(2)(b) and stated, "You don't have to know why. Give me your bag so I can search it." Sgt. Matzinger then snatched § 87(2)(b)'s purse off of her shoulder and rummaged through it. Sgt. Matzinger recovered one bag of marijuana. Sgt. Matzinger stated that he approached § 87(2)(b) and a group of females standing on the corner of Linden Blvd. and Dillon Street. Sgt. Matzinger thought the females were purchasing alcohol from a house on the corner that makes illegal sales and he approached to investigate further. Sgt. Matzinger approached the group and inquired why they were at the location. All of the females were compliant with Sgt. Matzinger except for § 87(2)(b). § 87(2)(b) questioned Sgt. Matzinger and accused him of racially profiling them. Sgt. Matzinger requested § 87(2)(b)'s identification. Both officers explained that the house on the corner of Linden Blvd. and Dillon Street is known for the illegal sale of alcohol. It is a known condition within the precinct and officers frequently patrol the area. Sgt. Matzinger observed § 87(2)(b) and friends on the corner and approached them to inquire why they were there. Sgt. Matzinger asked basic questions such as why the females were at the location and where they lived. § 87(2)(g)

§ 87(2)(b) alleged that Sgt. Matzinger snatched her purse off of her shoulder and rummaged through it. In § 87(2)(b)'s purse he recovered one bag of marijuana. According to Sgt. Matzinger, § 87(2)(b) was the only person that was uncooperative while he interacted with the group. Sgt. Matzinger decided to issue a summons to § 87(2)(b) and requested her identification. § 87(2)(b) informed Sgt. Matzinger that she did not have identification. Sgt. Matzinger informed § 87(2)(b) that her identification would have to be verified at the stationhouse if she did not have it. § 87(2)(b) stated, "Oh, I have my ID." § 87(2)(b) entered her purse to retrieve her ID and Sgt. Matzinger shined his flashlight in the bag so he could see what she was doing. § 87(2)(b) entered her purse and attempted to quickly throw something. Sgt. Matzinger grabbed § 87(2)(b)'s arm and instructed her to open her hand. § 87(2)(b) was holding one bag of marijuana. § 87(2)(b) was handcuffed and placed in the patrol car. At that point Sgt. Matzinger searched § 87(2)(b)'s purse to ensure that she had no other contraband or weapons. Sgt. Matzinger searched the purse incident to § 87(2)(b)'s arrest. Patrol Guide Procedure 208-03 states that an arresting officer must, "Immediately field search/frisk prisoner and search adjacent vicinity for weapons, evidence and/or contraband." § 87(2)(g)

Allegation B: Sgt. Joseph Matzinger spoke obscenely and/or rudely to § 87(2)(b)

§ 87(2)(b) stated that she approached Sgt. Matzinger and asked, "What happened?" Sgt. Matzinger stated, "You don't have to know why. Give me your bag so I can search it." § 87(2)(b) stated, "Officer all I want to know is what happened." Sgt. Matzinger stated, "You don't need to know what happened. Give me your fucking bag so I can search it." Sgt. Matzinger stated that he did not use any profanities with § 87(2)(b). PO Lowe did not corroborate Sgt. Matzinger's account because he was unable to hear the conversation between the two. PO Lowe stood to the rear of the vehicle with the other occupants and did not interact

with § 87(2)(b) § 87(2)(b) s friends were unable to be contacted to provide statements § 87(2)(g)
[REDACTED]
[REDACTED]

Investigator:	Date:
Supervisor:	Date:
Reviewed by:	Date:
Reviewed by:	Date: